

**ASSEMBLY BILL**

**No. 399**

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**Introduced by Assembly Member Brownley**

February 23, 2009

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An act to amend Section 20731 of the Government Code, relating to public employees' retirement.

LEGISLATIVE COUNSEL'S DIGEST

AB 399, as introduced, Brownley. Public Employees' Retirement System: accumulated contributions.

The Public Employees' Retirement Law (PERL) permits a member of the Public Employees' Retirement System (PERS) with less than 3 years of service who enters employment as a member of another public retirement system supported, in whole or in part, by state funds, within 6 months of leaving state service to elect to leave accumulated contributions on deposit in the retirement fund. The law provides that failure to make an election to withdraw accumulated contributions shall be deemed an election to leave accumulated contributions on deposit in the retirement fund.

This bill would require that a member who is permanently separated from all service covered by PERS, who is not in specified public service, and who attains the age of 70, be provided with an election to withdraw contributions or, if vested, an election to either apply for service retirement or withdraw contributions. The bill would require that failure to apply for service retirement or to make an election to withdraw contributions within 90 days be deemed an election to withdraw contributions. The bill would specify the method of distribution of contributions for members who cannot be located with reasonable diligence. The bill would also technical changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 20731 of the Government Code is  
2 amended to read:

3 20731. (a) Notwithstanding any other provision of this part,  
4 a member who is credited with less than the years of service  
5 specified in Article 1 (commencing with Section 21060) of Chapter  
6 12 who enters employment as a member of a public retirement  
7 system supported, in whole or in part, by state funds, including  
8 the University of California Retirement System, or as a member  
9 of a county retirement system, within six months of leaving  
10 state service, shall have the right to elect to leave accumulated  
11 contributions on deposit in the retirement fund. Failure to make  
12 an election to withdraw accumulated contributions shall be deemed  
13 an election to leave accumulated contributions on deposit in the  
14 retirement fund. This section shall also apply to a member who is  
15 subject to Section 21076, except that no election to leave  
16 contributions on deposit is required for service that is subject to  
17 Section 21076.

18 ~~An~~

19 (b) (1) An election to allow accumulated contributions to remain  
20 in the retirement fund may be revoked by the member at any time,  
21 except ~~and of the following: (1) while~~

22 (A) While the member is employed in state service in a position  
23 in which the member is not excluded from membership with respect  
24 to that service; or (2) while service.

25 (B) While the member is in service as a member of a public  
26 retirement system supported, in whole or in part, by state funds,  
27 including the University of California Retirement System; or (3)  
28 while System.

29 (C) While the member is in service, entered within six months  
30 after discontinuing state service, as a member of a county  
31 retirement system. ~~All~~

32 (2) All accumulated contributions ~~accumulated in a member's~~  
33 ~~account up to the time of revocation may then be withdrawn shall~~  
34 ~~be distributed in accordance with an election pursuant to Section~~  
35 ~~20735. A~~

(3) *A member who is permanently separated from all service covered by the system, who is not subject to paragraph (1), and who attains 70 years of age shall be provided with an election to withdraw contributions or, if vested, an election to either apply for service retirement or to withdraw contributions. Failure to apply for service retirement or to make an election to withdraw contributions within 90 days shall be deemed an election to withdraw contributions. If the person fails to either apply for service retirement or elect to withdraw contributions, or cannot, with reasonable diligence, be located, the accumulated contributions shall be distributed in accordance with Section 21500.*

(c) *A member whose membership continues under this section is subject to the same age and disability requirements as apply to other members for service or for disability retirement. After the qualification of the member for retirement by reason of age, which shall be the lowest age applicable to any membership category in which the member has credited service, or disability, the member shall be entitled to receive a retirement allowance based upon the amount of the member's accumulated contributions and service standing to the member's credit at the time of retirement and on the employer contributions held for the member and calculated in the same manner as for other members, except that the provisions in this part for minimum service and disability retirement allowances shall not apply to the member, unless the member meets the minimum service requirements. If a basic death benefit becomes payable under Article 1 (commencing with Section 21490), Article 2 (commencing with Section 21530), and Article 5 (commencing with Section 21620) of Chapter 14 because of death before retirement of a member, the average annual compensation earnable in the year preceding the date of termination of that service, rather than in the year preceding death, shall be used in computing the benefit under Articles 1, 2, and 5 of Chapter 14.*

*The provisions of this section, as it read prior to June 21, 1971, shall continue with respect to a member whose membership continued under this section on that date.*

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